

*Facts  
About  
Maine's  
Workers'  
Compensation  
Laws*





# *Facts About Maine's Workers' Compensation Laws*



*Prepared and distributed by the  
Maine Workers' Compensation Board*

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The Maine Workers' Compensation Board prepared this guide to help you understand Maine's workers' compensation system. This guide attempts to answer the questions most often asked by injured workers. Much of the information in this guide only applies to employees who were injured on or after January 1, 1993, although there is some information about earlier dates of injury. A glossary of commonly used terms is also provided.

If you would like additional information, please contact one of the regional offices of the Workers' Compensation Board listed below:

**AUGUSTA**

24 Stone Street  
Augusta, ME 04330-5220  
207-287-2308  
1-800-400-6854

**LEWISTON**

36 Mollison Way  
Lewiston, ME 04240-5811  
207-753-7700  
1-800-400-6857

**CARIBOU**

10 Washburn Ave.  
Suite 110  
Caribou, ME  
04736-2347  
207-498-6428  
1-800-400-6855

**BANGOR**

106 Hogan Road  
Bangor, ME 04401-5640  
207-941-4550  
1-800-400-6856

**PORTLAND**

62 Elm Street  
Portland, ME 04101-0840  
207-822-0840  
1-800-400-6858

or visit our Home Page at:  
<http://www.Maine.gov/wcb>

**WORKERS' COMPENSATION BOARD  
MISSION STATEMENT**

The Board's mission is to serve the employees and employers of the State fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.

## Maine Workers' Compensation Board

Augusta 1-800-400-6854

Bangor 1-800-400-6856

Caribou 1-800-400-6855

Lewiston 1-800-400-6857

Portland 1-800-400-6858

### Interpreters Available

ENGLISH

When calling for assistance, please say the name of your language in English and an interpreter will be called for you. Please stay on the line.

SPANISH

Tenemos intérpretes a su disposición

Si necesita que le atiendan en español por favor diga "Spanish" y le conectaremos con un intérprete. Por favor manténgase en la línea.

PORTUGUESE

Temos intérpretes à sua disposição

Se precisar de atendimento em Português, por favor diga "Portuguese" e um intérprete será prontamente chamado. Por favor, aguarde na linha.

ITALIAN

Abbiamo intérpreti disponibili

Se avete bisogno di assistenza in Italiano, Vi preghiamo di dire "Italian" e un intérprete sarà messo a Vostra disposizione. Vi preghiamo di rimanere in linea.

FRENCH

Des interprètes sont à votre disposition

Lorsque vous appelez pour demander de l'aide, prononcez le mot "French" et nous mettrons un interprète à votre disposition. Prière de rester en ligne.

POLISH

Tłumacze dostępni na życzenie.

Aby uzyskać pomoc tłumacze, proszę powiedzieć po angielsku "Polish" i czekać na linii.

RUSSIAN

“К вашим услугам имеются переводчики”

“Когда Вы обращаетесь за помощью по телефону, пожалуйста скажите, что Вы говорите по-русски (произнесите “РАШН”), и мы обеспечим Вас переводчиком. После этого, пожалуйста, оставайтесь на линии.”

## 提供口譯服務

CHINESE

打電話請求幫助時，請用英語說“挾音呢斯”(CHINESE)— 我們將為您提供口譯人員。請不要挂斷電話。

JAPANESE

通訳サービスをご利用いただけます

通訳を必要とされる場合は「ジャパニーズ」とおっしゃり、通訳ができるまでそのままでお待ちください。

KOREAN

한국어 통역을 이용하실 수 있습니다.

도움이 필요하여 전화를 거실 때 영어로 코리언 (KOREAN)이라고 말씀하시면 통역자를 연결해 드릴 것입니다. 전화를 끊지 마시고 기다리십시오.

VIETNAMESE

“Có Thông Dịch Viên”

“Khi gọi điện thoại để được giúp đỡ, xin quý vị hãy nói “VIETNAMESE” để chúng tôi cho thông dịch viên giúp quý vị. Xin quý vị chờ trên đường dây.

ARABIC

مترجمون شفهيون متيسرون لخدمتكم

عند إتصالكم للمساعدة أو لطلب خدمة معينة نرجو منكم أن تذكروا (أ-ر-ب-ك) ونحن سنقدم لكم مترجما شفهيًا . ابقوا على الخط من فضلكم.

PERSIAN

افراد مترجم در دسترس مي باشند.  
را که بدان صحبت مي کنيد به انگليسي ذکر کنيد تا راجع به امري به ما تلفن مي کنيد، لطفاً نام زباني قطع نکنيد. هنگامیکه براي درخواست کمک يا شما تماس گرفته شود. لطفاً روي خط منتظر بمانيد.  
با یک مترجم براي

SOMALI

Turjunaanno waa la helayaa

Marka aad caawinaad inoogu soo yeeraneysid, fadhlan luqaddaada af Ingiriisi inoogu sheeg turjubaan ayaa lguugu yeeri doonaaye. Taleefoonkana ha dhigin.

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## GLOSSARY OF COMMONLY USED TERMS

***Average Weekly Wage:*** In most cases the average amount of money you earned each week for the 52 weeks prior to your injury. Special rules apply to employees who customarily work less than 26 weeks per year, or who work in certain kinds of jobs. Fringe benefits may also be included in your average weekly wage.

***Compensation Rate:*** The compensation rate equals 80% of the injured workers' average weekly wage after taxes have been taken out.

***Compensable:*** The word compensable can describe an injury that is related to work. It can also describe a medical bill or a claim for lost wages that your employer must pay.

***First Report:*** A written report prepared by an employer after a worker reports an injury. The report must be completed within 7 days after you notify your employer of an injury. Your employer must give you a copy.

***Health Care Provider:*** A doctor, nurse, chiropractor, physical therapist or other person who provides medical treatment.

***Hearing Officer:*** An employee of the Workers' Compensation Board. Hearing Officers hold hearings and write decisions that resolve disputes between workers and employers.

***Insurer:*** An insurance company that pays workers' compensation claims for employers. Insurers also represent employers when disagreements occur between workers and employers.

***Lost Time:*** The amount of time an employee has missed from work because of an injury.

***Lost Wages:*** Earnings an employee loses because of an injury.

***Mediator:*** An employee of the Workers' Compensation Board. Mediators hold conferences to help injured workers, insurers and employers voluntarily resolve disputes.

***Memorandum of Payment:*** Often called a "MOP." A form sent from an insurer to an injured worker and the Workers' Compensation Board to notify the worker that a payment for lost time was made.

**Notice:** When you tell your employer (which can mean a supervisor or someone from management) that you are injured and that your injury is related to your job, you give notice of your injury. You must give notice of your injury to your employer within 90 days of your injury.

**Notice of Controversy:** Often called a "NOC" (pronounced "knock"). A form sent from an employer to an injured worker and the Workers' Compensation Board to let an injured worker know that the employer is denying their request for benefits.

**Payment without prejudice:** Your employer may pay you benefits without being certain that your injury is related to work. These payments are made without prejudice. In other words, they are voluntary.

**Petition:** A written request by a party asking that a hearing officer hold a formal hearing. Common petitions include:

***Petition for Award:*** Used to demand payment of lost wages.

***Petition for Payment of Medical and Related Services:*** Used to demand payment of medical bills and expenses.

***Petition for Reinstatement:*** Used to demand that your employer give you a job.

***Petition to Remedy Discrimination:*** Used to demand relief for discrimination related to a workers' compensation claim.

***Petition for Review:*** Used by employees to request that a Hearing Officer review a suspension of benefits. Used by employers to end or reduce payments for lost time.

**Statute of limitations:** If you are injured at work, there is a time limit within which you must file a claim. This is called the statute of limitations. If you do not file a petition or receive workers' compensation benefits within 2 years of your injury, you may lose your right to claim benefits in the future.

**Troubleshooter:** An employee of the Workers' Compensation Board. Troubleshooters resolve disputes between workers and employers and provide assistance and information to parties who use the workers' compensation system.

**Weekly compensation benefits:** If you miss time from work because of an injury, you will receive benefits to replace some of your lost wages. These payments are called weekly compensation benefits. The maximum weekly benefit is \$506.42.

***Worker Advocate:*** An employee of the Workers' Compensation Board who helps injured workers with their claims. The Worker Advocate helps injured workers prepare for mediation and formal hearing, and also attends mediation and formal hearing with injured workers.

***Workers' Compensation Board:*** The state agency that oversees the workers' compensation system. The Workers' Compensation Board helps injured workers and employers resolve disputes about workers' compensation benefits.

## **A SUMMARY OF WORKERS' COMPENSATION**

Workers' Compensation is a type of insurance provided by your employer. It provides benefits to employees who suffer injuries on the job. These benefits include:

- Weekly payments for time lost from work because of an injury;
- Payment of medical bills, prescriptions and related costs;
- Payment for the loss of a specific body part;
- Payment of the cost of vocational rehabilitation (such as job retraining and job placement);
- Payment of death benefits to the dependents of a worker whose death was work related.

There are certain steps you must take if you are injured at work:

- You must tell your employer (which can mean a supervisor, or someone from management) that you were injured within 90 days of the injury;
- If your employer has selected a health care provider, you must go to your employer's health care provider for the first 10 days of treatment;
- If you want to change health care providers after the first 10 days, you must tell your employer that you are going to do that, and tell them who the new health care provider is.

When you tell your employer you have been injured at work your employer must:

- Fill out a First Report of Injury and give you a copy.
- Pay your claim for lost time within 14 days; or,
- Send a Notice of Controversy to you and to the Workers' Compensation Board if your employer does not want to pay your medical bills and/or lost time benefits.

If there is a dispute about whether your employer must pay your claim:

- A Troubleshooter will contact you and try to resolve the dispute.
- If the Troubleshooter cannot resolve the dispute, a mediation will be held.
- If mediation does not resolve the dispute, you may request a formal hearing.

Qualified injured workers are entitled to the services of a Worker Advocate. Worker Advocates help injured workers prepare for mediation and formal hearing.

## **QUESTIONS & ANSWERS**

### **What should I do if I am injured at work?**

You must tell your employer (which can mean a supervisor or a member of management) as soon as possible that you have been injured.

### **When must I tell my employer that I have been injured at work?**

You must tell your employer within 90 days of your injury, or when you learn of your injury, that you have been injured. If you wait more than 90 days you will lose the right to claim worker's compensation benefits.

### **What should my employer do when I report an injury?**

Your employer must complete a First Report of Injury within 7 days. Your employer must give you a copy of the First Report of Injury. If you lose a day's work because of your injury, your employer must also file the First Report of Injury with the Workers' Compensation Board. If your employer does not complete the First Report of Injury, you should call a regional office of the Workers' Compensation Board and ask to speak to a Troubleshooter.

### **Can I get medical help for my injury?**

Yes. For the first 10 days of treatment, your employer has the right to select a health care provider to treat your injury. After the first 10 days of treatment, you may choose a different health care provider. You do this by telling your employer that you wish to have a different person treat your injury.

### **Can my employer ask me to see another doctor?**

Yes. Section 207 of the Workers' Compensation Act says that if you are being treated by a health care provider of your own choice, your employer can require you to see a different doctor for another opinion. Your employer must choose a doctor who is certified in the field of practice that treats your injury. This is not the same thing as an independent medical exam under §312, a process that is explained later in this guide.

**Will my employer pay for any other medical costs?**

Yes. Your employer will pay for medicine and for mileage to and from your visits to health care providers. They will also pay for medical aids such as wheelchairs, eyeglasses, crutches and hearing aids.

**How long can I receive treatment for my injury?**

You can receive treatment until you recover from your injury. Your employer must pay for reasonable and proper treatment that is related to your injury.

**If I need treatment while my employer disputes my claim, will my health insurer pay my bills?**

Yes. If the workers' compensation insurer will not pay your claim for medical treatment, you can submit the bills to your health insurer for payment. Your health insurer must pay the bills if the workers' compensation insurer is denying your claim and has not made any payments to you based on your claim. The health insurer may require you to pursue a claim through mediation.

**What if I have to miss time from work because of my injury?**

If you miss time from work because of an injury, you are entitled to receive weekly compensation benefits. Compensation for time you miss from work is not payable for the first 7 days of incapacity unless you miss more than 14 days or are a firefighter.

**Will my employer pay me my full salary while I am out?**

No. If you were injured on or after January 1, 1993, your employer will pay you 80% of your after tax average weekly wage. This is called your compensation rate. There is a limit on how much you can receive. The maximum benefit you can receive is \$506.42.

If you were injured before January 1, 1993, your employer will pay you 2/3 of your gross average weekly wage.

**When does my employer have to decide if it is going to pay me for my lost time?**

Your employer must decide whether to pay your lost time claim within 14 days of the time you tell your employer that your injury has caused you to miss work.

## **What if my employer does not do anything for the first 14 days?**

If your employer does not dispute your claim within 14 days, it must begin paying you weekly compensation. Your employer must continue paying you at least until it files a Notice of Controversy.

## **How will I know if my employer is going to pay my claim?**

If your employer decides to pay your claim, it will send you a Memorandum of Payment.

## **My Memorandum of Payment says that my claim is “accepted”. What does that mean?**

This means that your employer agrees that you have been injured at work and that you are entitled to benefits.

## **My Memorandum of Payment says that my claim is “voluntary payment pending investigation”. What does that mean?**

This means that your employer is paying your claim even though it is not sure that your injury is work related. This type of payment is often called “payment without prejudice”.

## **What if I can work but I cannot find a job?**

You may be entitled to receive 100% of your compensation rate if your injury stops you from returning to work. You can show that your injury prevents you from returning to work by doing a “work search”. In other words, by keeping a list of the jobs that you have applied for but have not gotten.

## **What if I go back to work but I cannot earn as much as I used to earn?**

If you return to work, but your injury stops you from earning as much as you used to earn, you may receive partial benefits. Partial benefits are equal to 80% of the difference between your after-tax weekly wage before your injury, and after-tax weekly wage that you are able to earn after your injury.

## **Do I have to do anything when I return to work after an injury?**

Yes. If you are receiving compensation for your injury, you must notify the Workers' Compensation Board and the employer you were working for when you were injured that you have returned to work. You must do this within 7 days of returning to work.



## **How long can I receive benefits for lost time?**

Regardless of your date of injury, if your incapacity is total, you may receive benefits for as long as you are unable to work. Employees who are able to work full-time are not entitled to total incapacity benefits, but may be entitled to partial incapacity benefits.

Partial incapacity benefits are due if you are able to work, but still have some restrictions on what you can do because of your injury. As of January 1, 2000 the limit on partial incapacity benefits increased from 260 weeks to 364 weeks. There are three exceptions to the limit on benefits. First, if your injury has caused more than 15% permanent impairment, you can receive benefits for as long as your injury lasts. Second, if you were injured between January 1, 1993 and December 31, 2001, and your injury has caused permanent impairment of 11.8% or greater or, for injuries on and after January 1, 2002, if your permanent impairment is greater than 13.2%, you can receive benefits for as long as your injury lasts. Third, you can ask the Workers' Compensation Board to order the employer to continue paying benefits after the limit has been reached. To do this, you must prove that you will suffer an extreme financial hardship because you cannot return to work.

If you were injured between October 17, 1991 and December 31, 1992, you may receive partial incapacity benefits for a maximum of 520 weeks.

If you were injured between November 20, 1987 and October 16, 1991, you may receive partial incapacity benefits for a maximum of 400 weeks after you have reached a maximum medical improvement. (Maximum medical improvement means the date after which further recovery is no longer reasonably anticipated.)

If you were injured prior to November 20, 1987, there is no limit on the amount of partial incapacity benefits you can receive.

## **Can my employer stop paying benefits without my agreement?**

Yes. If your claim is “accepted”, your employer can stop paying lost time benefits if you return to work for your employer or if you receive an increase in pay from your employer. Your employer may also file a Petition for Review to stop or reduce your lost time benefits.

If your claim is being paid without prejudice, your employer can stop paying lost time benefits if you return to work for your employer, or receive an increase in pay from your employer. In addition, the employer can stop your benefits by filing a 21-day certificate of discontinuance.

## **What is a 21-day certificate of discontinuance?**

If your employer is paying you without prejudice, it can notify you that it intends to discontinue lost time benefits by mailing a 21-day certificate of discontinuance. Your lost time benefits cannot be stopped earlier than 21 days from the date the certificate is mailed to you. Your employer must state the reasons it is going to stop your benefits.

## **What can I do if I receive a 21-day certificate of discontinuance?**

You can file a Petition for Review and request a provisional order. When you file these forms, you will be asking a Hearing Officer to decide, within about 21 days, whether or not the employer can stop your benefits before a hearing is held. You can contact a regional office of the Workers' Compensation Board and speak to a Troubleshooter who will help you fill out these forms.

## **What if my injury bothers me in the future?**

You can ask that your employer pay for more medical care and lost time. You can make a claim only if the statute of limitations on your claim has not run out.

## **What is the statute of limitations?**

The statute of limitations is the time limit within which you must file a claim for benefits. Once the statute of limitations runs out, you cannot make a claim for further benefits. The statute of limitations is different for different dates of injury. If your employer makes a payment for workers' compensation benefits within 2 years of your injury or the last time they made a payment, the statute of limitations will not expire for at least 2 years. You must file a petition within two years of the date your employer filed a First Report of Injury with the Workers' Compensation Board. There are certain cases where a longer period between payments can go by without the statute of limitations expiring. If you have questions about the statute of limitations, you should call a regional office of the Workers' Compensation Board and ask to speak to a Troubleshooter.

## **What if my employer refuses to pay my claim?**

If your employer refuses to pay your claim they will file a Notice of Controversy. A Notice of Controversy is often called a "NOC." The Notice of Controversy should say why the employer is not agreeing to pay your claim.

## **What happens if my employer files a Notice of Controversy?**

If your employer files a Notice of Controversy, your case will be sent to a Troubleshooter. The Troubleshooter will try to contact both you and your employer and try to resolve the disagreement. If you receive a Notice of Controversy, and you do not hear from a Troubleshooter within 2 weeks, you should call a regional office of the Workers' Compensation Board and ask to speak with a Troubleshooter.

## **What if the Troubleshooter cannot resolve the dispute?**

If the Troubleshooter cannot resolve the dispute your case will be sent to a Mediator. The Mediator will meet with you, your employer and the employer's insurance company. The meeting will be held in an informal setting. The parties, with the Mediator's help, will attempt to come to an agreement. The Mediator will not take sides at the mediation. Any agreements you reach must be reached voluntarily.

## **If my case is sent to mediation, will someone be available to help me?**

Yes. There are Worker Advocates at each regional office who help injured workers with their claims. You can receive assistance from a Worker Advocate if you were injured on or after January 1, 1993, have participated in troubleshooting, do not have an attorney, and request the services of a Worker Advocate. The addresses and phone numbers of the Worker Advocate offices are listed at the back of this guide.

## **What will the Worker Advocate do?**

The Worker Advocate will help you prepare for mediation, and will attend mediation with you. They will also help you negotiate with your employer to resolve your dispute.

## **Can I get a lawyer to help me?**

Yes. If you were injured on or after January 1, 1993, you will be responsible for paying your attorney for his or her services.

If you were injured between June 30, 1985 and December 31, 1992, your employer will pay your attorney's fees if you prevail at a formal hearing.

If you were injured prior to June 30, 1985, your employer will pay your attorney's fees if you make a claim in good faith, or if your employer begins the process.

## **What if the Mediator cannot resolve the dispute?**

If the Mediator cannot resolve the dispute, then either you or your employer can file petitions that request a formal hearing. There are different petitions that you can use to request different benefits. For example, if you want your employer to pay lost time benefits, then you would file a Petition for Award. If you want your employer to pay medical bills, then you would file a Petition for Payment of Medical and Related Services. These forms are available in all regional offices.

After an unsuccessful mediation, you, your employer, or a Hearing Officer may request an independent medical exam. Independent medical exams are explained later in this guide.

## **Will the Worker Advocate be able to help me after mediation?**

Yes. If your claim goes to a formal hearing, the Worker Advocate will help you prepare for the hearing, and will attend the hearing with you.

## **What is a formal hearing?**

The formal hearing is your opportunity to present your case to a Hearing Officer. The Hearing Officer will listen to your evidence and the evidence that your employer wants to present. After the Hearing Officer has heard all of the evidence, the Hearing Officer will write a decision. The decision is binding on you and your employer.

## **What if I disagree with the Hearing Officer?**

You may appeal the Hearing Officer's decision to the Supreme Judicial Court of Maine. (The Supreme Judicial Court is also known as the "Law Court.") The Supreme Judicial Court does not have to hear your appeal, they choose the cases they will hear.

## **What is an independent medical exam?**

If a request for an independent medical exam is granted, the Workers' Compensation Board will ask a doctor to examine you, and the records that you and your employer give to the doctor. The independent medical examiner will write a report that explains whether your injury is related to work. The independent medical examiner's decision will be binding on you and your employer if you agreed on an examiner. If the Workers' Compensation Board appointed the examiner, the examiner's decision will be binding unless there is

clear and convincing evidence that the examiner's findings are wrong.

**What is the difference between an independent medical exam under §312 and a medical exam under §207?**

An examination under §207 is an examination by a doctor that your employer has chosen. The doctor's opinion is not binding on the parties. An independent medical exam is an exam under §312 by a doctor that the Workers' Compensation Board has chosen. Unlike a §207 exam, the findings of an independent medical examiner are binding unless there is clear and convincing evidence that the examiner's findings are wrong.

**Does my employer have to give me my job back?**

If you are able to return to work, and your job is open, your employer must offer you your previous job. If your employer has filled your old job, or if your injury prevents you from doing that job, your employer must give you a job that you can do even with your injury. Your employer must also make reasonable accommodations for your injury. That means that your employer must make changes to a job that will allow you to return to work, as long as the changes would not impose an undue hardship on your employer.

**What if I cannot return to my old job and there is no other work at my employer's business?**

If you cannot return to your old job because of your work related injury, you may be entitled to receive vocational rehabilitation. Vocational rehabilitation may include job retraining and job placement.

**What if my employer will not pay for vocational rehabilitation?**

If your employer will not voluntarily pay for vocational rehabilitation you can ask the Workers' Compensation Board to recommend a vocational rehabilitation plan. If your employer refuses to pay for the plan, the Workers' Compensation Board will pay for the rehabilitation plan. If the plan is successful, the Workers' Compensation Board will try to get reimbursement for the plan from your employer. You will not be responsible for any of the cost of a plan that the Workers' Compensation Board pays for.

## **Can my employer discriminate against me if I file a workers' compensation claim?**

No. Your employer cannot discriminate against you for filing a workers' compensation claim. Your employer cannot discriminate against you for testifying in a workers' compensation claim. If you think your employer has discriminated against you because you filed a claim or testified, you can file a Petition to Remedy Discrimination.

## **Are there penalties in the Workers' Compensation Act?**

Yes. Employers and employees can be penalized for not filing required reports and forms, and for willful violations of the Workers' Compensation Act, fraud or intentional misrepresentation. Employers can be penalized for making late payment of benefits.

Also, the Board has established an Audit, Enforcement, and Monitoring Program known as the "MAE" Program.

## **What is the "MAE" Program?**

The Office of Monitoring, Audit and Enforcement (MAE Program) actively monitors cases to ensure that all obligations under the Act are met.

## **Where can I get more information?**

You can get more information at any of the regional offices listed at the front of this guide or on the Board's website: [www.Maine.gov/wcb](http://www.Maine.gov/wcb)

## **What are the addresses and phone numbers of the Worker Advocate offices?**

The addresses and phone numbers of the Worker Advocate offices are listed below. If you have not spoken to a Troubleshooter, please use the addresses and phone numbers listed at the beginning of this guide. If you have already spoken to a Troubleshooter, and need to contact a Worker Advocate, please use the addresses and phone numbers listed below.

### **AUGUSTA**

24 Stone Street

Augusta, ME 04330-5220

207-287-2266

1-888-645-2266

### **LEWISTON**

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## NOTES



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